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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/875,753	06/06/2001	Olaf Vancura	1498/198(b)	8046

23381 7590 05/24/2004

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EXAMINER	
PIERCE, WILLIAM M	
ART UNIT	PAPER NUMBER

3711

24

DATE MAILED: 05/24/2004

Please find below and/or attached an Office communication concerning this application or proceeding.



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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Paper No. 21

Application Number: 09/875,753

Filing Date: June 06, 2001

Appellant(s): VANCURA, OLAF

MAILED

MAY 24 2004

GROUP 3700

SUPPLEMENTAL EXAMINER'S ANSWER

NOTE: The Boards attention is drawn to copending application 10/372,724 also on appeal.

Pursuant to the Remand under 37 CFR 1.193(b)(1) by the Board of Patent Appeals and Interferences on 8/26/03, a supplemental Examiner's Answer is set forth below:

- 1) There exists no new possible grounds for rejection. On pg. 2, Ins. 7-10 of Remand, the Board refers to the Examiner's references made to subject matter contained in Thomas, Perrie, Marnell and Walker in his Answer. In doing so they question where or not this constitutes a new grounds for rejection. However, it should be recognized that it is appropriate to cite prior art not relied to develop only a portion of what is known in the art at the time of the invention. As mentioned in the Answer (pg. 8, ln. 190, these references shows the general skill of one practicing in the art of gaming and the motivation that would provide such persons. See *In re Berg*, 65 USPQ2d 2003 (Fed. Cir. 2003). These references were cited for the convenience of the Board who may not be readily familiar with the play of wagering games as appellant and examiner. Lastly with respect to this issue, it is incumbent upon the examiner to reply to each and every argument advance by appellant in his Brief. With the features being argued by appellant as

Art Unit: 3711

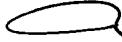
being so notorious in video poker, a stronger rebuttal was deemed to cite a reference showing the general level of skill in the art rather than to have the examiner describe in his own words how the many variations of video poker are played. Hence, the remarks made pertaining to the subject matter contained in the references above are provided in the Answer to merely rebut arguments advanced by appellant and to show the general skill of one practicing in the art and are not considered to be a new grounds for rejection.

2) The IDS filed 5/3/02 has been considered. A copy of the PTO-1449 is appended to this Supplemental Examiner's Answer.

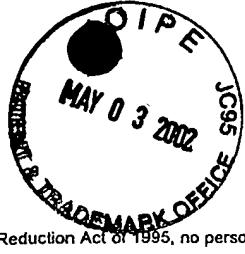
For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

May 17, 2004


WILLIAM M. PIERCE
PRIMARY EXAMINER

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PTO/SB/08A (10-01)

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Substitute for form 1449A/PTO				Complete if Known	
INFORMATION DISCLOSURE STATEMENT BY APPLICANT <i>(use as many sheets as necessary)</i>				Application Number	09/875,753
				Filing Date	June 6, 2001
				First Named Inventor	Vancura
				Art Unit	3711
				Examiner Name	Pierce
Sheet	1	of	1	Attorney Docket Number	1482/198(b)

U.S. PATENT DOCUMENTS

FOREIGN PATENT DOCUMENTS

Examiner Signature		Date Considered	5/11/04
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*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² See Kinds Codes of USPTO Patent Documents at www.uspto.gov or MPEP 901.04. ³ Enter Office that issued the document, by the two-letter code (WIPO Standard ST.3). ⁴ For Japanese patent documents, the indication of the year of the reign of the Emperor must precede the serial number of the patent document. ⁵ Kind of document by the appropriate symbols as indicated on the document under WIPO Standard ST. 16 if possible. ⁶ Applicant is to place a check mark here if English language Translation is attached.

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